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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,128	04/20/2005	Ralf Christoph	05051	6001
23338	7590	09/25/2006	EXAMINER	
DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314			TON, TRI T	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/532,128

Applicant(s)

CHRISTOPH, RALF

Examiner

Tri T. Ton

Art Unit

2877

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/20/05</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 04/20/05 has been entered. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Oath/Declaration***

3. The Oath and Declaration filed on 04/20/20045 is acceptable.

### ***Drawings***

4. The drawings filed on 04/20/2005. These drawings are acceptable.

### ***Specification***

5. The disclosure is objected to because of the following informalities:  
Page 6, lines 21, 24 and 28, beam "46" is not in the drawing.  
Page 6, line 27, lens "82" is not in the drawing.  
Claim 5, line 4, lens "44" is not in the drawing.

Claim 5, line 5, lens "22" is not in the drawing.

The examiner respectfully suggests remove all reference numbers in claims.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(e) as being taught by Ebihara (U.S. Patent No. 6,396,589). Hereafter, "Ebihara".

Regarding Claim 1, Ebihara teaches a light source, from which a lighting beam path originates impinging on a measuring point on the object (Figure 2, element 21), (column 4, lines 60-61), as well as an optical system for capturing and imaging a measuring point on at least one optical sensor, such as CCD sensor (Figure 2, element 40), (column 5, lines 32-40), whereby the optical system consists at least one movable lens group containing measuring lenses (Figure 2, element 31), (column 5, lines 21-22), at least one additional lens passed through by the lighting beam are arranged (Figure 2, elements 26a, 26b), (column 4, lines 66-67), whereby a first beam

path originating from the measuring lenses runs on the object side in parallel to the beam path originating from the at least one additional lens (Figure 2, elements L1, 22, 22b, 25a, 25b).

It is well known in the art that any lens needs a seat in order to keep and hold the lens.

Regarding Claim 2, Ebihara teaches the first beam path is an image processing beam path and/or the lighting beam path is of a bright field epi-illuminator, or a laser distance sensor beam path (Figure 2, element 40), (column 5, lines 32-34).

Regarding Claim 3, Ebihara teaches the lighting beam path and the second beam path, and possibly one further beam path passing through lenses arranged in the seats meet on or on about one point of the object (Figure 2, elements 25a, 25b, L1, 28).

Regarding Claim 6, Ebihara teaches imaging lens system with zoom lens system comprising lenses passed through by a beam path arranged in seats, which can be adjusted in relation to each other for magnification and/or working distance change (column 5, lines 21-22), whereby the beam path impinges on a measuring point of the to be examined object, characterized in that by each seat lenses for two or several beam paths running in parallel to each other are held, and that the beam paths run in parallel to each other on the object side and impinge on the to be measured object in the measuring point (Figure 2, element 25a, 25b, L1, 26a, 26b, 31).

Regarding Claim 7, Ebihara teaches the measuring lenses passed through by the image processing beam path (column 5, lines 16-18), and/or the additional lenses passed through by the lighting beam path, and/or the lenses passed through by the laser distance beam path are optimized with respect to light passing through them (column 4, lines 60-67, and column 5, lines 1-15).

Regarding Claim 8, Ebihara teaches the lenses are coated for achieving an optimization of the beams passing through them (column 4, lines 66-67 and column 5, lines 1-3).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebihara (U.S. Patent No. 6,396,589) in view of Tiziani (DE 10056073 A1). Hereafter, "Ebihara" and "Tiziani".

Regarding Claim 4, Ebihara teaches all the limitations of claim 1 as stated above except for each seat of the measuring lenses of the movable lens group, at least one additional lens is arranged as imaging lens. Tiziani teaches the measuring lenses and imaging lens have the same seats (Figure, element 3). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Ebihara by adding for each seat of the measuring lenses, at least one additional lens is arranged as imaging lens in order to optimize and simplify the measuring apparatus.

***Remarks***

Examiner have requested a full English translation of reference DE 10056073A1 on 09/14/06. Further consideration of allowable subject matter is possible upon receipt of reference.

*He*

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebihara (U.S. Patent No. 6,396,589) in view of Nose et al. (Patent Number 5,033,856). Hereafter, "Ebihara" and "Nose".

Regarding Claim 5, Ebihara teaches all the limitations of claim 1 as stated above except for in front or behind movably arranged additional measuring lens on the object side, a second beam path originating from the additional lenses can be deflected into the optical axis of the measuring lenses. Nose teaches a second beam path originating from the additional lenses can be deflected into the optical axis of the measuring lenses (Figure 1, element 12, 4, 6, 10, 14, 16). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Ebihara by saying a second beam path originating from the additional lenses can be deflected into the optical axis of the measuring lenses in order to simplify the optical path of the measuring apparatus.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references of Ebihara (U.S. Patent No. 6,396,589), Tiziani (DE 10056073 A1) and Nose et al. (Patent Number 5,033,856) teach of various features similar to the claimed invention.

### ***Fax/Telephone Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri T. Ton whose telephone number is (571) 272-9064. The examiner can normally be reached on 8:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



September 14, 2006  
Examiner Tri Ton/SN



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